

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 524 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No.

BHANVARSHINH UDESINH RANAVAT

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for Petitioner
MR.RM CHAUHAN,AGP, for the Respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 23/06/98

ORAL JUDGEMENT

In this writ petition under Article 226 of the Constitution of India, the detenu Bhanvarsinh Udesinh Ranavat, who is detained pursuant to the order of detention dated 12-12-97 passed by the Commissioner of Police, Ahmedabad under section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the Act") has challenged the

same .

In the grounds of detention supplied to the detenu, the detaining authority has relied upon two prohibition cases filed against the detenu out of which one is pending in the Court for trial whereas the other is under investigation. The detaining authority has also relied upon the statements of four witnesses recorded in relation to the incidents dated 16-11-97 and 21-11-97 wherein it is alleged that when the customers of the detenu after consuming liquor at his den uttered abuses the witnesses requested the detenu to request them to behave properly . On this the detenu came out and dragged the witnesses at the public place and beaten them. People gathered there and when the detenu took out knife the people started running helter skelter by which an atmosphere of fear was created. Thus, in the grounds of detention ,it is alleged that the petitioner is a prohibition bootlegger and that by indulging in use of force and violence and by illegal sale of liquor, the petitioner creates an atmosphere of fear and terror by beating innocent citizens. It is also alleged that the petitioner is indulging in anti-social activities and that the activities are against public order. On the basis of the aforesaid material, the detaining authority was satisfied that with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of public order, it is necessary to detain the detenu and therefore the impugned order of detention came to be passed against him.

On behalf of the petitioner, it was contended that even if the allegations made against the petitioner are accepted as true, it is too much to brand him as a bootlegger. The Supreme Court in Piyush Kantilal Mehta vs Commissioner of Police, Ahmedabad City, AIR 1989 SC 491 on similar allegations made against the detenu in that case has held that the offences alleged against the detenu in the order of detention and also the allegations made by the witnesses could not be said to have created any feeling of insecurity or panic or terror among the members of the public of the area giving rise to the question of maintenance of public order. The order of detention could not therefore be upheld. In view of this decision, it is not possible for me to uphold the order of detention in the present case. The allegations made against the petitioner by the witnesses are minor incidents of beating by the petitioner and which could not be said to create feeling of insecurity among the general public. In view of this, the order of detention is vitiated.

In the result, this petition is allowed. The order of detention dated 12-12-97 is quashed and set aside. The detenu Bhanvarsinh Udesinh Ranavat is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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